

AMENDED IN ASSEMBLY MARCH 18, 2025

CALIFORNIA LEGISLATURE—2025–26 REGULAR SESSION

ASSEMBLY BILL

No. 710

Introduced by Assembly Member Irwin

February 14, 2025

An act to add Section 490.45 to the Penal Code, relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

AB 710, as amended, Irwin. Theft of a gift card.

Existing law makes every person who, with intent to defraud, sells, transfers, or conveys an access card, as defined, without the cardholder's or issuer's consent guilty of grand theft. Existing law makes every person who, with the intent to defraud, designs, makes, alters, or embosses a counterfeit access card or utters or otherwise attempts to use a counterfeit access card guilty of forgery. Existing law makes every person who, with the intent to defraud, uses a forged or altered card guilty of theft.

This bill would make a person who, with the intent to defraud, acquires or retains possession of a gift card or gift card redemption information, as defined, or uses an acquired or forged card, without the consent of the cardholder, card issuer, or gift card seller, or, with the intent to defraud, devises a scheme to obtain a gift card or gift card redemption information from a cardholder, card issuer, or gift card seller by means of false or fraudulent pretenses, representations, or promises guilty of theft, punishable as a misdemeanor, and, if the things of value that are acquired or used exceed \$950, guilty of grand theft, punishable as a misdemeanor or a felony. The bill would make a person who, with the intent to defraud, alters or tampers with a gift card guilty

of forgery, punishable as a misdemeanor or a felony. By creating new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 490.45 is added to the Penal Code, to
2 read:

3 490.45. (a) A person who, with the intent to defraud, acquires
4 or retains possession of a gift card or gift card redemption
5 information without the consent of the cardholder, card issuer, or
6 gift card seller is guilty of theft.

7 (b) A person who, with the intent to defraud, alters or tampers
8 with a gift card is guilty of forgery, punishable pursuant to Section
9 473.

10 (c) A person who, with the intent to defraud, uses a gift card or
11 gift card redemption information for the purpose of obtaining
12 money, goods, services, or anything else of value that has been
13 obtained in violation of subdivision (a) or (b) is guilty of theft.

14 (d) A person who, with the intent to defraud, devises a scheme
15 to obtain a gift card or gift card redemption information from a
16 cardholder, card issuer, or gift card seller by means of false or
17 fraudulent pretenses, representations, or promises is guilty of theft.

18 (e) If the value of all money, goods, services, and other things
19 of value obtained in violation of this section exceeds nine hundred
20 fifty dollars (\$950), the person is guilty of grand theft.

21 (f) For the purposes of this section, the following terms have
22 the following meanings:

23 (1) "Cardholder" means a person to whom a physical or virtual
24 gift card is issued through a purchase or a person who receives a
25 gift card from a willing party.

26 (2) "Card issuer" means a person that issues a gift card or the
27 agent of that person with respect to that card.

1 (3) ~~(A)~~—“Gift card” means a physical or digital card, code, or
2 device that is either activated or inactivated and is issued to a
3 consumer on a prepaid basis primarily for personal, family, or
4 household purposes in a specified amount, regardless of whether
5 that amount may be increased or reloaded in exchange for payment,
6 and can be either of the following:

7 (i)

8 (A) A closed-loop gift card, meaning that it is redeemable upon
9 presentation by a consumer at a single merchant or group of
10 affiliated merchants.

11 (ii)

12 (B) An open-loop gift card, meaning that it is redeemable upon
13 presentation by a consumer at multiple unaffiliated merchants for
14 goods or services within the payment card network.

15 ~~(B) “Gift card” does not mean “access card” as that term is~~
16 ~~defined in Section 484d.~~

17 (4) “Gift card redemption information” means information
18 unique to a gift card that allows the cardholder to access, transfer,
19 or spend the funds accessed by the gift card.

20 (5) “Gift card seller” means a merchant that is engaged in the
21 business of selling open-loop or closed-loop gift cards to
22 consumers.

23 (6) “Value” means the greatest amount of economic loss the
24 owner of the property might reasonably suffer, including the full
25 monetary face value of a gift card or the potential value for variable
26 load gift cards.

27 SEC. 2. No reimbursement is required by this act pursuant to
28 Section 6 of Article XIII B of the California Constitution because
29 the only costs that may be incurred by a local agency or school
30 district will be incurred because this act creates a new crime or
31 infraction, eliminates a crime or infraction, or changes the penalty
32 for a crime or infraction, within the meaning of Section 17556 of
33 the Government Code, or changes the definition of a crime within
34 the meaning of Section 6 of Article XIII B of the California
35 Constitution.